

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

IN RE: YASMIN AND YAZ (DROSPIRENONE))	3:09-md-02100-DRH-PMF
MARKETING, SALES PRACTICES AND)	MDL No. 2100
PRODUCTS LIABILITY LITIGATION)	

ORDER

This Document Relates to:

***Erika Balli, et al. v. Bayer HealthCare
Pharmaceuticals Inc., et al. No. 3:10-cv-13126-DRH-PMF¹***

Brianna Hawthorne v. McKesson Corp., et al. No. 3:10-cv-20411-DRH-PMF

ORDER DISMISSING WITHOUT PREJUDICE

HERNDON, Chief Judge:

This matter is before the Court on Defendant Bayer HealthCare Pharmaceuticals Inc.'s ("Bayer") motion to dismiss the above captioned actions without prejudice (filed on June 21, 2011). Plaintiffs' responsive pleadings were due on or before July 25, 2011. To date, Plaintiffs have not responded to Bayer's motion.

On May 16, 2011, the Court granted a motion to withdraw filed by plaintiff's counsel in the *Balli* matter. (*Balli*Doc. 10). The Court noted that Plaintiff's Plaintiff Fact Sheet was due on April 5, 2011, and it further noted the "numerous attempts [Plaintiff's] counsel has made to communicate with plaintiff regarding her Plaintiff Fact Sheet obligations (all of which have been

¹This motion applies to Plaintiff Erika Balli only.

ignored). On May 24, 2011, the Court granted a motion to withdraw filed by Plaintiff's counsel in the *Hawthorne* matter. (*Hawthorne* Doc. 18). The Order provided that, "[i]f Plaintiff or her new counsel fails to file a supplementary entry of appearance within 21 days of the entry of this Order, plaintiff's action will be subject to dismissal without prejudice for failure to comply with this Order and with her PFS requirements." To date, and in violation of the Order and Local Rule 83.1(g), plaintiffs have not filed a supplementary appearance.

Pursuant to Federal Rule of Civil Procedure **41(b)**, a complaint may be involuntarily dismissed where a plaintiff fails to prosecute or to comply with the rules or a court order. **See Fed. R. Civ. P. 41(b)**. In the above captioned cases, plaintiffs have failed to comply with this Court's Order and with **Local Rule 83.1(g)**.

In addition, each plaintiff's failure to file an appearance has prejudiced Bayer. In each of these matters, a Plaintiff Fact Sheet was due on or before April 25, 2011. To date, and in violation of Case Management Order 12, Plaintiffs' have not served a Plaintiff Fact Sheet. Thus, the Plaintiff Fact Sheets are more than one month overdue.

Accordingly, for the reasons stated herein, the Court **ORDERS** as follows:

- In member action No. **3:10-cv-13126-DRH-PMF**, *Erika Balli, et al. v. Bayer HealthCare et al.*, the claims of **plaintiff Erika Balliare dismissed without prejudice.**
- Member action No. 3:10-cv-20411-DRH-PMF, *Brianna Hawthorne v. McKesson Corp., et al.*, is dismissed without prejudice.

SO ORDERED.

 David R. Herndon
2011.08.04
17:47:03 -05'00'



Chief Judge
United States District Court

Date: August 4, 2011